



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Number: **202003007**  
Release Date: 1/17/2020

Date:  
October 21, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

**UIL: 501.08-00**

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(8) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
August 26, 2019  
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

W = state  
X = date  
Y = date  
Z = city  
q dollars = amount

**UIL:**  
501.08-00

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(8). This letter explains the reasons for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under Section 501(c)(8) of the Code? No, for the reasons stated below.

**Facts**

You were incorporated in W on X. Prior to incorporating you were organized as an unincorporated association. You had exempt status under Section 501(c)(4) of the Code that was automatically revoked on Y for failure to file Form 990 for three consecutive years. In response to the revocation, you filed Form 1024 requesting reinstatement under Section 501(c)(8).

You were formed so that members of the police force in the local area could meet in an unofficial capacity to discuss ways they could contribute to the maintenance of the high standards of the local police department and determine where improvements could be made. You provide benefits to the families of deceased members of the police department and benefits to members upon retirement. You also sponsor civic programs which are beneficial to the general public. Regular activities consist of meetings followed by discussions about your objectives and accomplishments.

Membership is open to any person duly appointed from the civil service register regularly employed as a police officer by the city of Z or officers retired from the department per regulations. Benefits of membership include a

stipend of q dollars presented to any member upon qualified retirement or to the designated recipient or estate of the member if the member dies prior to qualified retirement. You also have a schedule of distribution for those members that do not meet the qualifications at retirement. Your filed articles indicate your purpose is to assist family member of deceased and retired police officers.

You are supported through membership dues, an annual fundraising event and investment income. You do not operate under a lodge system.

### **Law**

Section 501(c)(8) of the Code provides for the exemption from federal income tax of fraternal beneficiary societies, orders, or associations-

- (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and
- (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order or association or their dependents.

Treasury Regulation Section 1.501(c)(8)-(a) states that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident or other benefits.

Rev. Rul. 63-190, 1963-2 C.B. 212 described a nonprofit organization (not operated under the lodge system), which maintained a social club for members and provided sick and death benefits for members and their beneficiaries, did not qualify for exemption from federal income tax either as a social club under Section 501(c)(7), a civic league under Section 501(c)(4), or a fraternal beneficiary society under section 501(c)(8) of the Code.

The court in Western Funeral Benefit Association v. Hellmich, 2 F.2d 367 (E.D. Mo. 1924), stated that by the 'lodge system' is generally understood as an organization which holds regular meetings at a designated place, adopts a representation form of government, and performs its work according to ritual.

In Philadelphia and Reading Relief Association v. Commissioner, 4 B.T.A. 713 (1926), the court held that an organization of railroad company employees that made payments to members who became disabled because of accident or sickness was not entitled to exemption because it was not "fraternal". The court cited rituals, ceremonies, and regalia as evidence of a fraternal purpose, and was unable to discover a single fraternal feature in its organization, being entirely without social features or fraternal object. The petitioner had neither lodges, rituals, ceremonial, nor regalia; and it owed no allegiance to any other authority or jurisdiction.

### **Application of law**

You do not operate under a lodge system as defined in Treas. Reg. Section 1.501(c)(8)-(a), so although you are providing certain benefits to members or their dependents you do not meet the standards of exemption under Section 501(c)(8) of the Code.

One of your main activities is providing retirement and death benefits to members. As noted in Rev. Rul. 63-190, providing death benefits to members does not qualify an organization for exemption under Section 501(c)(8).

Western Funeral Benefit Association found that an organization operating under a 'lodge system' is generally understood as an organization which holds regular meetings at a designated place, adopts a representation form of government, and performs its work according to ritual. While you hold regular meetings and have adopted bylaws you do not perform your work according to ritual. Further, as you have indicated, you do not operate under the lodge system.

In Philadelphia and Reading Relief Association, the court cited rituals, ceremonies, and regalia as evidence of a fraternal purpose. You have no such rituals, ceremonies or regalia. Thus, you are not fraternal in nature.

### **Conclusion**

You are not formed under a lodge system or as a fraternal organization. Therefore, you do not qualify for exemption under Section 501(c)(8) of the Code.

### **If you agree**

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

### **If you don't agree**

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**  
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't

already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

### **Where to send your protest**

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

#### U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
P.O. Box 2508  
Cincinnati, OH 45201

#### Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

### **Contacting the Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements